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SEP 12 2004

In re Application of
Jeffrey C. Herold
Application No. 09/690,360
Filed: October 16, 2000
Attorney Docket No. 033905-009

:
: OFFICE OF PETITIONS
: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(b)
:

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed January 12, 2001, which set a two month period for submitting the statutory filing fee, a signed oath or declaration, and the \$65 surcharge fee for their late filing. It is noted that an executed oath was present on filing, which renders the requirement in the Notice therefor improper. It is further noted that an authorization to charge the filing fees for this application was also present on filing. However, there were insufficient funds in the authorized deposit account for charging the statutory filing fee. Accordingly, since the filing fee required by the Notice was not received within the period set, the date of abandonment of this application is April 13, 2001. A Notice of Abandonment was mailed on May 23, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the filing and surcharge fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of January 12, 2001 is accepted as having been unintentionally delayed.

As authorized, the \$385 filing fee and the \$65 surcharge fee required by the Notice of January 12, 2001 will be charged to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680.

The application file is being forwarded to the Office of Initial Patent Examination for preexamination processing.

Frances Hicks
Frances Hicks

Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy